

REMARKS

Claims 1-3 remain active in this application and are subject to a requirement for restriction. No new matter has been introduced into the application.

The Examiner acknowledges that claim 1 is generic and has required restriction between the species of single-round auction in claim 2 and the species of multi-round auction in claim 3. The Examiner asserts that the species are distinct “because the claims to the different species recite the mutually exclusive characteristics of such species.” A provisional election has been made, with traverse, of the multi-round auction species. The Requirement for Restriction is respectfully traversed for the reasons set out below.

The connection between single-round and multi-round auctions is described at page 7, line 22, to page 8, line 3:

Auctions that are parameterized as a single-round, sealed-bid auction only require feedback about which of the bids are winners. In multiple-round auctions, after each round the provisional winning bids and a market clearing price for each bundle (or item) is provided. If there is feedback on the winning bids, this information is fed back to block 203, where each bidder uses the information to re-formulate new bids so as to maximize their expected return for the next round of bidding. (Step 206). Typically, there is always feedback about the winning bids. In a single-round auction, the bidders do not respond with new bids but only the winning bidders will transact based on their winning bid.

The Examiner asserts that the two species are “mutually exclusive”. However, it is clear that all the characteristics of the single-round auction are present in the multi-round auction. The difference is that in the multi-round auction there is the additional characteristic that feedback about the winning bids is fed back for consideration by bidders in a new round of bids.

Thus, it is not understood what the Examiner means by “mutually exclusive characteristics,” or what the additional search and examination burden would be. Indeed, it is readily apparent that the search and examination required

for the elected multi-round auction will include all the characteristics of the single-round auction. The Examiner has not, in fact, demonstrated that the search required for an examination of the non-elected single-round auction would not already be covered by the search for the multi-round auction.

Accordingly, it is respectfully submitted that the restriction requirement for an election of species lacks a *prima facie* demonstration of independence or distinctiveness of the inventions described in claims 2 and 3. Additionally, the Examiner has made no *prima facie* demonstration that there would exist a serious burden upon examination in the absence of a Requirement for Restriction. Such a showing is required to properly support a requirement for Restriction. As the Examiner is aware, a *prima facie* demonstration of both a) the independence and distinctiveness of the identified inventions and b) the existence of a serious burden of examination in the absence of such a requirement, must be made in order to support a proper Requirement for Restriction. Further, it is respectfully submitted that the above errors confuse the line of demarcation between single-round and multiple-round auctions, and thereby compromises protection against a double-patenting rejection.

Therefore, it is respectfully submitted that the requirement for restriction is in error and improper and, upon reconsideration, should be withdrawn. However, should the Examiner adhere to the Requirement for Restriction, it is respectfully requested that the requirement be restated in a proper manner accurately recognizing and characterizing the actual subject matter of the identified species, in order to clarify the record and avoid prejudice to the applicants.

Since all requirements contained in the outstanding official action have been fully answered and shown to be in error and/or inapplicable to the present claims, it is respectfully submitted that reconsideration is in order under 37 C.F.R. §1.111(b) and such reconsideration is respectfully requested. Upon such reconsideration, it is also respectfully submitted that this application is in condition for allowance and such action is therefore respectfully requested.

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Response dated 03/18/2009

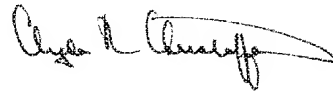
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Reply to office action mailed 02/18/2009

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If an extension of time is required for this response to be considered as being timely filed, a conditional petition is hereby made for such extension of time. Please charge any deficiencies in fees and credit any overpayment of fees to Deposit Account 50-0510 (IBM-Yorktown).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Clyde R. Christofferson", with a long, sweeping horizontal stroke extending to the right.

Clyde R Christofferson
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